

## REMARKS

Claims 1, 3, 5-8, and 11-14 are pending. Claims 1, 3, 5-8, and 11-13 are amended. Claims 2, 4, and 9-10 have been canceled. Claim 14 has been added. No new matter has been introduced. Reexamination and reconsideration of the present application are respectfully requested.

In the October 17, 2005 Office Action, the Examiner rejected claims 1, 2, and 4 under 35 U.S.C. § 102 (b) as being anticipated by Parkinson et al., U.S. Patent No. 5,430,379 (hereinafter Parkinson). The Examiner rejected claims 3 and 5 under 35 U.S.C. § 103 (a) as being unpatentable over Parkinson in view of Balkman, U.S. Patent No. 5,093,622 (hereinafter Balkman). The Examiner rejected claims 6 and 12 under 35 U.S.C. § 103 (a) as being unpatentable over Parkinson in view of Howell, U.S. Patent No. 5,754,049 (hereinafter Howell). The Examiner rejected claims 7 and 13 under 35 U.S.C. § 103 (a) as being unpatentable over Parkinson in view of Parakulam et al., U.S. Patent No. 6,407,550 (hereinafter Parakulam). The Examiner rejected claims 8-10 under 35 U.S.C. § 103 (a) as being unpatentable over Parkinson in view of Doany, U.S. Patent No. 5,471,143 (hereinafter Doany). The Examiner rejected claim 11 under 35 U.S.C. § 103 (a) as being unpatentable over Parkinson in view of Doany in further view of Smith, U.S. Patent No. 3,471,772 (hereinafter Smith). Applicants respectfully traverse the rejections in view of the claims as amended.

### **Independent claim 1, as amended, now recites:**

A method of locating a selected type of passive electronic marker, said method comprising:  
transmitting a signal at a frequency associated with a selected type of passive electronic marker;  
receiving a signal from a marker;  
determining a frequency distribution of the received signal by performing synchronous detection on a signal received during said receiving;  
indicating presence of the selected type of passive electronic marker if, responsive to said

determining, the frequency with the greatest amplitude is the frequency associated with the selected type of passive electronic marker; and

***preventing an indication for other passive electronic marker types associated with a frequency having less than the greatest amplitude.***

The Parkinson reference does not disclose, teach or suggest the method specified in independent claim 1, as amended. Unlike the method specified in independent claim 1, as amended, Parkinson does not teach a method which includes “***preventing an indication for other passive electronic marker types associated with a frequency having less than the greatest amplitude.***”

Instead, Parkinson is directed to an adapter for a conventional conductor locator which converts the conductor locator into a conventional passive electronic marker detector. Parkinson describes a device having circuitry of a conventional marker locator allowing for the detection of passive electronic markers at discrete frequencies. The device is controlled by a knob 33 which has five settings, one for each of the conventionally used utility frequencies. When adapter 10 is turned on, control circuitry 54 instructs transmitter 50 to energize any passive marker 60 in the vicinity. Receive antenna 58 picks up the re-radiated signal from marker 60 and passes it to marker detection circuitry 52. (*Parkinson; Col. 5, lines 7- 56*) However, the method specified in claim 1 is distinct from Parkinson, because Parkinson fails to identify and distinguish a selected marker type from the other marker types in the vicinity. Accordingly, Applicants respectfully submit that claim 1, as amended distinguishes over Parkinson.

Independent claim 8, as amended and new claim 14, recite limitations similar to those in independent claim 1, as amended. Accordingly, Applicant respectfully submits that claims 8 and 14 distinguish over Parkinson for reasons similar to those set forth above with respect to claim 1.

Claims 3 and 5-7 depend from independent claim 1, as amended. Claims 11-13 depend

from independent claim 8, as amended. Accordingly, Applicants respectfully submit that claims 3, 5-7, and 11-13 distinguish over Parkinson for the same reasons set forth above with respect to claims 1 and 8, respectively.

With respect to claims 3 and 5, the Balkman reference does not make up for the deficiencies of Parkinson. The Balkman reference discloses an apparatus for locating buried conductors carrying an AC signal. (*Balkman; Abstract*) The apparatus includes a bar indicator which changes in color from gray to black upon location of a conductor. (*Balkman; Col 6, lines 27-34*) However, the combination of Parkinson and Balkman does not disclose, teach, or suggest a method which includes “***preventing an indication for other passive electronic marker types associated with a frequency having less than the greatest amplitude.***” Accordingly, Applicants respectfully submit that claims 3 and 5 distinguish over Parkinson in combination with Balkman.

With respect to claims 6 and 12, the Howell reference does not make up for the deficiencies of Parkinson. Howell discloses a method for locating buried conductors which includes a Fast Fourier Transform Analyzer 14 under control of a microprocessor 16 to analyze a local flux spectrum of surveyed locations to located the buried conductors. (*Howell; Col. 5, lines 23- 62*) However, the combination of Parkinson and Howell does not disclose, teach, or suggest a method which includes “***preventing an indication for other passive electronic marker types associated with a frequency having less than the greatest amplitude.***” Accordingly, Applicants respectfully submit that claims 6 and 12 distinguish over Parkinson in combination with Howell.

With respect to claims 7 and 13, the Parakulam reference does not make up for the deficiencies of Parkinson. Parakulam describes a line locator for determining the lateral location of the line locator relative to a concealed conductor. The line locator includes a band pass filter

to pass signals from multiple frequencies. (*Parakulam; Col.1, lines 32-35 and Col. 10, lines 6-21*) However, the combination of Parkinson and Parakulam does not disclose, teach, or suggest a method which includes “***preventing an indication for other passive electronic marker types associated with a frequency having less than the greatest amplitude.***” Accordingly, Applicants respectfully submit that claims 7 and 13 distinguish over Parkinson in combination with Parakulam.

With respect to claim 11, the Doany reference does not make up for the deficiencies of Parkinson. As the Examiner has acknowledged, Parkinson and Doany “lack the teaching that performing synchronous detection on the received signal includes a digital signal processor synchronous detector. (*October 17 Office Action, page 8*)

Further, the combination of Parkinson and Doany fails to disclose, teach or suggest a method which includes “***preventing an indication for other passive electronic marker types associated with a frequency having less than the greatest amplitude.***” Accordingly, Applicants respectfully submit that claims 11 distinguish over Parkinson in combination with Doany.

The Smith reference does not make up for the deficiencies of Parkinson and Doany. Smith discloses an apparatus for detecting and measuring the range and approximate size of buried metallic objects which includes synchronous detectors 22 and 23. (*Smith; Col. 1, lines 14-20 and Col. 4, line 72 – Col. 5, line 18*) Nevertheless, the combination of Parkinson, Doany and Smith does not disclose, teach or suggest a method which includes “***preventing an indication for other passive electronic marker types associated with a frequency having less than the greatest amplitude.***” Accordingly, Applicants respectfully submit that claims 11 distinguish over Parkinson in combination with Doany and Smith.

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In view of the foregoing amendment and remarks, Applicants believe that the claims are in condition for allowance. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference call would advance prosecution of the application.

Respectfully submitted,  
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